



NOAA FISHERIES FACT SHEET

Answers to Commonly Asked Amendment 10 Questions

Regulated Species: Atlantic Scallops



NATIONAL MARINE FISHERIES SERVICE

Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan (FMP/Amendment 10) was developed by the New England Fishery Management Council (Council) and was partially approved by National Marine Fisheries Service (NOAA Fisheries).

New measures implemented by Amendment 10 include a rotational area management scheme, essential fish habitat (EFH) closures, open area days-at-sea (DAS) allocations, dredge gear restrictions, set-asides for observer coverage and research in the scallop fishery, and a proactive protected species program.

The new DAS allocations are effective on June 23, 2004. With the exception of the 4-inch minimum ring size in all areas, all other measures are effective July 23, 2004, including the 4-inch minimum ring size requirement in the Hudson Canyon Access Area. The 4-inch minimum ring size is required in all areas effective December 23, 2004.

This insert is intended to be a brief, practical guide to some of the changes taking place under Amendment 10. It is not a substitute for the complete regulations. All federal permit holders and federally permitted dealers

should get a copy of the complete, official regulations which include area coordinates by calling NOAA Fisheries at 978-281-9315, or by going to our web site at <http://www.nero.noaa.gov/amend10>. A full copy of Amendment 10, including the Final Supplemental Environmental Impact Statement, Regulatory Impact Review and Regulatory Flexibility Analysis is available from the New England Fishery Management Council (telephone 978-465-0492, web site: <http://www.nefmc.org>).

Area Rotation Program

Amendment 10 implements a new Area Rotation Program that has been in development for four years. The new program expands on area based management implemented under recent framework actions.

Q: What is the area rotation program?

A: The area rotation program is a long-term, comprehensive management strategy designed to maximize sea scallop yield. Different areas will be opened and closed to scallop fishing on a rotational basis to protect juvenile scallops and direct fishing effort to areas where optimum harvest conditions are present.

Q: What kinds of areas are created under the Area Rotation Program?

A: The program defines 3 types of fishing areas under the Sea Scallop FMP.

- (1) Sea Scallop Access Areas (Access Areas)
- (2) Rotational Closed Areas
- (3) Open Areas

In addition, Amendment 10 designates Essential Fish Habitat (EFH) Closed Areas to minimize adverse effects on EFH due to scallop fishing activities. No vessel may fish for or land sea scallops in or from these areas. These areas are all located within the current year-round groundfish closed areas (Closed Area I, Closed Area II, Nantucket Lightship Closed Area, and Western Gulf of Maine Closed Area) where scallop fishing is currently prohibited by Northeast multispecies regulations.

Q: What is the difference between Open Areas and Access Areas?

A: Access Areas have area-specific trip and possession limit restrictions. If more than one Access Area is opened at one time (which may occur in the future), they may or may not all have the same trip and possession restrictions. Open Areas, on the other hand, are areas that are not defined as Access Areas or closed areas under the Area Rotation Program. Open areas are subject to DAS, gear, and crew restrictions. No possession limits apply in open areas unless the vessel is fishing under general category scallop rules.

Q: What is the difference between Rotational Closed Areas and EFH Closed Areas under the scallop FMP?

| Days-At-Sea Allocation | | | |
|--|-------------------|-------------------|-------------------|
| (Applies to limited access DAS vessels for use when fishing in open areas) | | | |
| DAS Category | Fishing Year 2004 | Fishing Year 2005 | Fishing Year 2006 |
| Full-Time | 42 | 117 | 152 |
| Part-Time | 17 | 47 | 61 |
| Occasional | 4 | 10 | 13 |

A: Rotational Closed Areas are areas that are closed to scallop fishing in order to protect large concentrations of small scallops. They will remain closed under the Area Rotation Program only until the small scallops in the area have grown to a size that would allow for optimal harvest of the resource. EFH closed areas are closed to scallop fishing indefinitely in order to protect the sea floor habitat from the effects of scallop fishing. The Mid-Atlantic (Elephant Trunk) Closed Area (see below) is a Rotational Closed Area.

Q: How will the Council identify future areas to be included in the Area Rotation Program and what are the criteria for closing an area as a Rotational Closure and re-opening an area as an Access Area?

A: Rotational Closures will be considered where projected annual change in scallop biomass is greater than 30 percent. Areas where the projected annual change in scallop biomass is less than 15 percent will be considered for Sea Scallop Access Areas. The Area Rotation Program includes guidelines concerning area boundaries and distribution of rotational closures, number of closures, minimum closure size, maximum closure extent, enforceability of rotational closed and re-opened areas, monitoring through resource surveys, and re-opening criteria.

Q: How will modifications to new Rotational Closed Areas and Access Areas be developed?

A: The Council will review and modify the Area Rotation Program measures as necessary through the framework process every two years.

Open Area Management

As described above, Amendment 10 distinguishes between “open areas” and “Access Areas” and establishes unique management measures for each type of area. Open areas will continue to be managed with measures similar to current management measures.

DAS Allocation

Q: Does Amendment 10 change my open area DAS allocation for FY 2004 and what are the open area DAS allocations under Amendment 10?

A: Yes. The DAS allocation given under the emergency regulations, implemented March 1, 2004, was revised by Amendment 10. See the “DAS Allocation” table on this page.

Q: Why is my DAS allocation so low for open areas?

A: The total available DAS for any given fishing year are now divided into two components, a fixed number of DAS in open areas plus a fixed number of trips and DAS in Access Areas. These DAS allocation combined are calculated to meet the overall fishing mortality objectives of the FMP. In contrast to previous measures, Access Area and open area DAS are not interchangeable, they are allocated and monitored separately (see “Allocation of DAS and Trip by Management Area” table). If a final rule to allow scallop fishing in the groundfish closed areas is not published by September 15, 2004, open area allocations will be increased to compensate for the lack of access to the groundfish closed areas (see “Adjusted DAS” table).

| Adjusted Days-at-Sea NOTE: You will receive further notification if this adjustment goes into effect | | |
|---|----------------------|---------------------|
| DAS Category | Increase in DAS 2004 | Total Open Area DAS |
| Full-Time | 20 | 62 |
| Part-Time | 8 | 25 |
| Occasional | 5 | 9 |

Q: If I want to take a trip into an open area how much advance notice do I have to give NOAA Fisheries?

A: For the purpose of randomly selecting vessels to carry an observer, a vessel must submit a report through the VMS e-mail messaging system (NEC.Observers@noaa.gov) of its intention to begin an open area trip 72 hours prior to the date it intends to depart. For each of these reports, vessels must submit the following information: Vessel name and permit number, owner and operator’s names, owner and operator’s phone numbers, date and time of departure, and port of departure. The observer program will either give you a waiver or assign an observer to your vessel for the particular trip.

Q: Do I have to wait 72 hours before I can leave for my trip?

A: No. You may leave as soon as you are either issued a waiver or an observer is aboard your vessel.

Gear Restrictions

Q: What are the new scallop dredge gear restrictions and when do they take effect?

A: Amendment 10 implements the following two new gear restrictions. These apply to all vessels, except vessels issued scallop permits that possess 400 lb or less of scallops and are fishing with hydraulic clam or mahogany quahog dredges:

- 1) The minimum mesh size for the twine top for all areas is increased from 8-inches to 10-inches, square or diamond mesh. This requirement applies to any trip that begins on or after July 23, 2004.
- 2) The minimum chain bag ring diameter for both open areas and the Hudson Canyon Access Area is increased from 3.5-inches to 4-inches. This requirement applies to any trip in the Hudson Canyon Access Area that begins on or after July 23, 2004. This requirement applies to any open area trip that begins on or after December 23, 2004.

Q: Can I have a dredge onboard with a twine top less than 10–inches if I am not using it and it is stowed properly?

A: No. The minimum twine top size is the same for Access Areas and open areas. There should be no need for a vessel to have onboard a twine top with less than 10-inch mesh.

Q: If I leave on a scallop trip before the new gear restrictions take effect, and come in after they take effect, do I have to use scallop dredge gear with the new required minimum ring and mesh size?

A: No. The new minimum ring and mesh size restrictions apply to scallop trips that begin on or after the effective dates explained above.

Access Area Program

Q: How many Access Areas are there?

A: Amendment 10 establishes only one Access Area, the Hudson Canyon Access Area.

Q: Does Amendment 10 modify the boundary of the Hudson Canyon Access Area implemented by emergency action on March 1, 2004?

A: Yes. The Hudson Canyon Access Area is modified because the prior Access Area is overlapped by the Elephant Trunk Closed Area (see chart).

Q: Can my vessel transit rotational closed areas, including the Elephant Trunk Closed Area, or EFH closed areas with scallops on board?

A: In most cases, yes, if all gear is properly stowed. The one exception to this rule is that vessels may only transit Closed Area II, if there is a compelling safety reason to transit the area.

Q: How many trips can I take into the Hudson Canyon Access Area?

A: The number of trips that your vessel may take into the Hudson Canyon Access Area depends on the vessel’s permit category. Trip allocations are shown in the “Hudson Canyon Access Area Trip Allocations” table.

Q: How many pounds of scallops can I land for a trip into the Hudson Canyon Access Area?

A: For each trip into the Hudson Canyon Access Area, limited access vessels may not land more than 18,000 lb of sea scallops, meat weight, unless the vessel is carrying a NOAA Fisheries observer.

Q: Once I enter the Hudson Canyon Access Area how long can I fish in there?

A: You will be charged 12 DAS for each trip, regardless of how many days you fish in the area. You may fish less than 12 days or more than 12 days, however you may not exceed the possession limit.

Q: Do scallop vessels issued occasional scallop permits need a VMS unit to fish in the Access Areas?

A: Yes. All participating limited access vessels must have installed on board an operational VMS unit.

Q: Can general category permit holders fish in Access Areas? Do general category permit holders need a VMS unit to fish in the Access Areas?

A: General category scallop permit holders, vessels with a limited access scallop permit that have declared out of the DAS program, or that have used up their scallop DAS allocations may fish in the Hudson Canyon Access Area provided they comply with the daily possession limit (400 lb shucked/50 bushels unshucked scallops). General category permit holders are the only vessels that can fish in the area without a VMS unit.

Q: Can I fish in an Access Area and in an open area on the same trip?

A: No, once you have declared into an Access Area trip you must fish your entire trip in the Access Area.

Q: Do the DAS that are charged for trips in Access Areas count against my open area DAS allocation?

A: No. DAS charged on trips in Access Areas do not count against open area DAS allocations. All Access Area trips count as 12 DAS, regardless of trip length.

Q: Can I carry over unused DAS from Access Areas into the next fishing year?

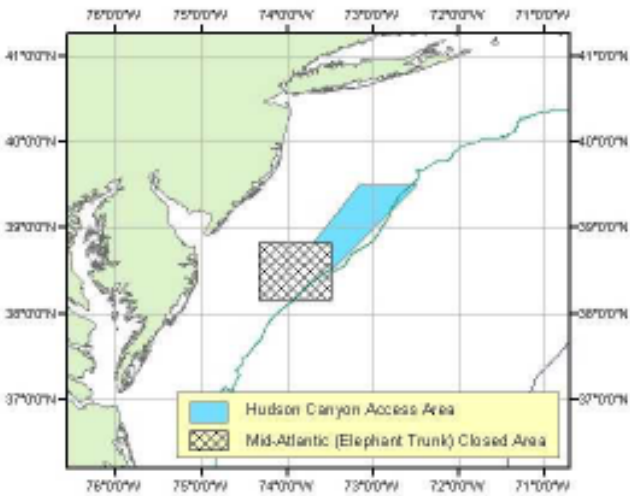
A: No. Only unused open area DAS can be carried into the next fishing year, up to a maximum of 10 DAS.

Q: Under the emergency action implemented on March 1, 2004, full-time scallop vessels were allocated 4 trips, and part-time and occasional vessels were allocated 1 trip, into the Hudson Canyon Access Area. Does Amendment 10 increase the number of trips that can be taken in the Hudson Canyon Access Area?

A: No, Amendment 10 does not allocate additional trips in the Hudson Canyon Access Area.

Q: Will additional Access Areas be established with similar controls in the future?

A: Yes. The Area Rotation Program requires management of the scallop resource through rotational closures and Access Areas based on the condition of the sea scallop resource.



| Hudson Canyon Access Area Trip Allocations (Allocations established for fishing year 2004 through emergency regulations and confiued by Amendment 10 | | | | |
|---|---|----|---|----|
| Limited Access Scallop Permit Category | Fishing Year 2004 Trips DAS per Trip | | Fishing Year 2005 Trips DAS per Trip | |
| Full-Time | 4 | 12 | 3 | 12 |
| Part-Time | 1 | 12 | 1 | 12 |
| Occasional | 1 | 12 | 1 | 12 |

| Compensation for Sea Scallop Access Area Trips Terminated Early | | | |
|--|---|--------------------|-----------------------------|
| Proportion of Scallop Landings to Scallop Possession Limit for Broken Trip | Example Hail Weight of Sea Scallop (meat weight, lbs) | Days-at-Sea Charge | Compensation Trip Allowance |
| 0 percent | Zero | 2 days-at-sea | 10 days; 15,000 lbs |
| More than 0-10 percent | 1 to 1,800 | 3 days-at-sea | 9 days; 13,500 lbs |
| More than 10-20 percent | 1,801 to 3,600 | 4 days-at-sea | 8 days; 12,000 lbs |
| More than 20-30 percent | 3,601 to 5,400 | 5 days-at-sea | 7 days; 10,500 lbs |
| More than 30-40 percent | 5,401 to 7,200 | 6 days-at-sea | 6 days; 9,000 lbs |
| More than 40-50 percent | 7,201 to 9,000 | 7 days-at-sea | 5 days; 7,500 lbs |
| More than 50-60 percent | 9,001 to 10,800 | 8 days-at-sea | 4 days; 6,000 lbs |
| More than 60-70 percent | 10,801 to 12,600 | 9 days-at-sea | 3 days; 4,500 lbs |
| More than 70-80 percent | 12,601 to 14,400 | 10 days-at-sea | 2 days; 3,000 lbs |
| More than 80 percent | Over 14,400 but less than 18,000 | 11 days-at-sea | 1 day; 1,500 lbs |

Q: Does NOAA Fisheries expect to allow scallop vessels to fish in the groundfish closed areas?

A: The Council has developed a framework adjustment to the Sea Scallop FMP that proposes to establish Access Areas in the groundfish closed areas on Georges Bank and Southern New England. This action is currently under review by NOAA Fisheries.

Q: Can I exchange trips with other vessels to increase the number of trips I can take in an area?

A: Yes, but only when there is more than one Access Area.

Q: If I want to take a trip into an Access Area how much advance notice do I have to give NOAA Fisheries?

A: The Access Area notification requirements are as follows:

- A vessel issued a valid limited access scallop permit and planning to fish in the Access Area Program must submit a report through the VMS e-mail messaging system (NEC.Observers@noaa.gov) of its intention to fish in the Hudson Canyon Access Area prior to the 25th of the month before the month in which the anticipated trip(s) are to be taken. The report must include the following information: Vessel name and permit number, owner and operator’s names, owner and operator’s phone numbers, and number of trips the vessel intends to fish.
- In addition to the above advance notice for accessing the Hudson Canyon Access Area, for the purpose of randomly selecting vessels to carry an observer, a vessel must also submit a report through the VMS e-mail messaging system (NEC.Observers@noaa.gov) of its intention to fish in the Access Area Program 72 hours prior to the date it intends to depart on each trip into a Access Area. For each of these reports, vessels must submit the following information: Vessel name and permit number, owner and

operator’s names, owner and operator’s phone numbers, date and time of departure, and port of departure.

- On the day that the vessel leaves port to fish under the Access Area Program, the vessel owner or operator must declare the vessel into the Access Area Program through the VMS prior to leaving port.

Provisions for Access Area Trips Terminated Early (“Broken Trips”)

Q: Can a vessel operator end an Access Area trip early?

A: Yes. A vessel operator may terminate an Access Area trip for any reason that they deem appropriate. The vessel must notify NOAA Fisheries via VMS before leaving the area and submit a request for a compensation trip.

Q: Can NOAA Fisheries deny a request for a compensation trip for a trip terminated early?

A: No. The Council specified in Amendment 10 the possession limit for compensation trips. The calculation is based primarily on the amount of scallops landed (meat weight) (see “Compensation for Sea Scallop Access Area Trips Terminated Early” table).

Q: Why is there a 2 DAS penalty applied to all Access Area trips terminated early?

A: The 2 DAS penalty is intended to encourage vessel owners to use this measure for serious matters only to maintain the integrity of the DAS, trip, and possession limit allocation system used in the areas.

Q: If my vessel is allowed to take a compensation trip, am I limited to how many days can I fish in the Access Area on this trip?

A: No. The DAS charged for compensation trips are fixed amounts. Similar to the standard 12 DAS charge applied to normal Access Area trips, vessels may fish as long as it is necessary for them to reach the possession limit assigned to the compensation trip.

Q: What if I have to terminate an Access Area trip before I cross the boundary line into the Access Area - will I still have 2 DAS automatically deducted from my Access Area Trip DAS allocation?

| Allocation of DAS and Trips by Management Area (For 2004-2005 fishing year to achieve fishing mortality target in 2006) | | | | | | | |
|---|-------------------------------|-------------|------|------|------|------|----------------|
| Management Area | Possession Limit & DAS Charge | Permit | 2004 | 2005 | 2004 | 2005 | 2006 (default) |
| Open fishing areas (excluding controlled access areas) | Does not apply | Full-time | | | 42 | *TBD | *TBD |
| | | Part-time | | | 17 | | |
| | | Occassional | | | 4 | | |
| Open fishing areas (excluding controlled access areas; begins Sept. 15, 2004 if a final rule for Framework 16/39 is not published by Sept. 15, 2004 | Does not apply | Full-time | | | 62 | 117 | 152 |
| | | Part-time | | | 25 | 47 | 61 |
| | | Occassional | | | 5 | 10 | 13 |
| Controlled access areas combined (Hudson Canyon Area allocation, starting March 1, 2004) | 18,000 lbs for 12 DAS | Full-time | 4 | 3 | 48 | 36 | N/A |
| | | Part-time | 1 | 1 | 12 | 12 | |
| | | Occassional | 1 | 1 | 12 | 12 | |

*TBD: Open fishing areas in 2005/2006 are dependent on Framework 16/39. These numbers will be determined at a later date.

| Example Activity Chart for Vessels Chosen to Carry an Observer | | | | | | |
|--|--------------------------|----------|-----------|----------|-------------------------|------------|
| | Monday | Tuesday | Wednesday | Thursday | Friday | Totals |
| Activity | DAS Clock Starts 7:00 PM | Fishing | Fishing | Fishing | DAS Clock Stops 5:00 AM | -- |
| Payment Required from Vessel | * | \$719.12 | \$719.12 | \$719.12 | * | \$2,157.36 |
| OPEN AREA TRIPS | | | | | | |
| COMPENSATION DAS Charge at Reduced (0.86) Accrual Rate | 0.18 | 0.86 | 0.86 | 0.86 | 0.18 | 2.94 |
| ACCESS AREA TRIPS | | | | | | |
| DAS Accrued | 0.21 | 1 | 1 | 1 | 0.21 | 3.42 |
| COMPENSATION - Additional Scallops Landed | 400 lbs | 400 lbs | 400 lbs | 400 lbs | 400 lbs | 2,000 lbs |

* No payment is required from the vessel because the observer was onboard less than 6 hours on Monday and on Friday. If the observer was onboard for 6 hours or more, (i.e. the trip began at 6:00 PM on Monday), an additional payment of \$719.12 would be required.

A: No. In this case, the amount of actual DAS used will be deducted from your open area DAS allocation.

Q: If an Access Area trip that began near the end of the fishing year is terminated early, can that trip be made up in the following fishing year?

A: No. Access Area trips are allocated specifically to the fishing year.

Observer Deployment

Q: Do I have to carry an observer if one is assigned to my vessel on a trip?

A: Yes, if an observer is assigned to your trip, you may not leave port on the scheduled trip without the observer. This is true for both Access Area trips and open area trips under scallop DAS. Further, a vessel that does not have a valid U.S. Coast Guard Inspection Sticker is inadequate for purposes of carrying a NOAA Fisheries observer. Any vessel that has been chosen to carry an observer may be prohibited from participating in the DAS or Access Area Program until the vessel is inspected by the Coast Guard and receives an inspection sticker.

Q: What information are observers collecting while they are on board my vessel during a scallop trip?

A: Observers collect a variety of standardized biological and economic information, such as catch and bycatch data, that is used for both scientific and management purposes.

Q: Do I have to pay for an observer to collect data aboard my vessel?

A: Yes. If your vessel is chosen to carry an observer you must pay the observer contractor \$719.12 for each day that the observer is onboard the vessel for 6 hours or more.

Q: How do I pay for the observer, and where do I send the payment?

A: Bank or cashier checks for the cost of the observer must be made out to A.I.S., Inc., and must be received within 1 week of the date the scallops are landed, unless the vessel owner receives other instructions in writing from NOAA Fisheries. Mail your check, along with a note containing the following information: “Sea Scallop Observer Fund,” vessel name, permit number, owner or operator name, time and date of departure, and time and date of return, to:

A.I.S., Incorporated
Attn: Arvidas Poshkus
P.O. Box 2093
New Bedford, MA 02741-2093

Q: If I transit between two ports with the observer onboard outside of scallop DAS, am I still responsible for paying for the observer for the transiting time, and do I get DAS or possession limit compensation for that time?

A: While you are responsible for paying for the observer for the transiting time, you are not compensated with DAS or the increased scallop possession limit until DAS begin to accrue. You are therefore urged to arrange to have the observer board your vessel in the port where you will begin the trip under scallop DAS.

Q: Can I recover some of the cost of carrying an observer?

A: Yes, but It depends what type of area you are in. **Open Areas:** One percent (1%) of the total available DAS are set aside to compensate for the cost of carrying observers. This pool of DAS is equal to 107 DAS for fishing year 2004 and 304 DAS for fishing year 2005. When you are fishing in an open area with an observer onboard, your DAS used will accrue at a rate of 0.86 DAS for every 1 DAS fished (e.g., for 10 actual DAS, your vessel will be charged 8.6 DAS). The vessel would therefore gain additional time to fish for scallops on a subsequent trip. **Access Area Program:** One percent (1%) of the total available Total Allowable Catch (TAC) for each Access Area is set aside and is available to vessels that carry an observer on an Access Area trip. Limited access vessels that carry an observer into an

Access Area may land an additional 400 lb of sea scallop meats for each DAS or part thereof that the vessel fishes with an observer onboard. This additional poundage is allocated in addition to the Access Area possession limit. The total set-aside for the 2004 and 2005 Hudson Canyon Access Area are 187,900 lb and 149,562 lb respectively.

Q: What happens if the DAS or TAC set-aside is used up?

A: If the either set-aside is used up, observers will continue to be deployed, and the vessel must bear the entire cost of carrying an observer without compensation. For trips in open areas, DAS will be charged to the vessel at the regular rate. For trips in the Access Areas, vessels will no longer be able to harvest the additional pounds of scallops. However, Amendment 10 allows the Council to adjust the amount of TAC or DAS set-aside for observer compensation in future actions. See “Example Activity Chart” for an example of how this compensation system works.

SNE Dredge Exemption

Q: Can general category scallop vessels and limited access scallop vessels fishing outside of scallop DAS fish in the Southern New England Area (for example, off of Block Island or Montauk)?

A: Yes, Amendment 13 to the Northeast Multispecies FMP, implemented on May 1, 2004, created the SNE Scallop Dredge Exemption Area. Under this program, vessels with general category scallop permits, vessels with limited access scallop permits that have declared out of the DAS program, or vessels that have used up their scallop DAS, but are not fishing under a multispecies DAS, may fish for scallops in this area under the following conditions:

- Such vessels may not fish for, possess, or land species other than Atlantic sea scallops and must comply with the daily possession limit (400 lb shucked/50 bushels unshucked scallops).
- The combined dredge width used by such vessels may not exceed 10.5 ft, measured at the widest point in the bail of the dredge.
- Scallop dredges must have a twine top mesh size of 10 inches or greater, square or diamond mesh, to minimize bycatch of groundfish, as of July 23, 2004. This is an increase from the current multispecies regulations consistent with Amendment 10.
- Vessels may not fish in the Nantucket Lightship Groundfish Closed Area or the Nantucket Lightship Habitat Closed Area.

